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DOCKET 11288

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE: APPLICATION OF )

MELVIN E. PIERCE )

SERIAL NO. 10/728,381 )

COLLIDER

FILING DATE: December 8, 2003 )

EXAMINER: FRANCIS )

ART UNIT: 3725 )

TO THE COMMISSIONER FOR PATENTS

SIR:

With reference to a telephone interview with the examiner on December 19, 2005, enclosed is a terminal disclaimer in response to the examiner's rejection of claims 1-7 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 30, 32 and 34 of U. S. patent 5,947,396. An assignment of the subject application in favor of Melvin E. Pierce was filed for recordation on December 21, 2005. A copy of the assignment is enclosed. The subject application and patent 5,947,396 are commonly owned.

From the above, it is believed that this application is in condition for allowance. Therefore, reconsideration, entry of the terminal disclaimer and allowance of claims 1-4 and 6 are requested.

Respectfully submitted,

Walter A. Rodgers  
Attorney's Reg. No. 27,380  
404-705-9299

Date: December 21, 2005

880 North Island Drive  
Atlanta, Georgia 30327



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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)  
**11288**

In re Application of: **Melvin E. Pierce**

Application No.: **10/728,381**

Filed: **December 8, 2003**

For: **COLLIDER**

The owner, **Melvin E. Pierce**, of **100** percent interest in the instant application hereby disclaims except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. **5,947,396** as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:


- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

- 1 ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the use of made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

- 2 ☒ The undersigned is an attorney or agent of record. Reg. No. **27,380**

  
Signature

**12-21-05**  
Date

**Walter A. Rodgers**

Typed or printed name

**404-705-9299**

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## ASSIGNMENT OF INVENTION

In consideration of the payment of Ten Dollars (\$10.00), the receipt of which is hereby acknowledged, and for other good and valuable consideration:

Dothan, Inc., an Alabama corporation whose business address is P. O. Box 930, Semmes, Alabama 36575 (hereinafter the "ASSIGNOR"), hereby sells, assigns and transfers the entire right, title and interest for the United States and its territorial possessions, and in all foreign countries, including all rights to claim priority, in and to any and all improvements which are disclosed in the invention entitled COLLIDER invented by Melvin E. Pierce, which is found in U. S. patent application serial number 10/728,381 filed on December 8, 2003, and any legal equivalent thereof in a foreign country, and any reissue or re-examination thereof to Melvin E. Pierce, a United States Citizen whose address is P. O. box 930, Semmes, Alabama 36575, his heirs and assigns (hereinafter the "ASSIGNEE").

ASSIGNOR authorizes ASSIGNEE to make application for such protection in its own name and maintain such protection in any and all countries foreign to the United States, and to invoke and claim for any application for patent or other form of protection for said inventions, without further authorization from ASSIGNEE, any and all benefits, including the right of priority provided by any and all treaties, conventions, or agreements.

ASSIGNOR requests that any and all patents for said inventions be issued to ASSIGNEE in the United States and in all countries foreign to the United States, or to such nominees as ASSIGNEE may designate.

ASSIGNOR hereby covenants with said ASSIGNEE that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been made to others by the undersigned, and that full right to convey the same as herein expressed is possessed by the undersigned.

ASSIGNOR further covenants that ASSIGNEE will, upon request, be provided promptly with all pertinent facts and documents relating to said invention and said Letters Patent and legal equivalents as may be known and accessible to ASSIGNOR and ASSIGNOR will testify to the same in any interference, litigation or proceeding related thereto, and ASSIGNOR will promptly execute and deliver to ASSIGNEE or ASSIGNEE'S legal representatives any and all papers,

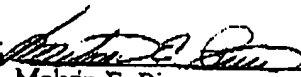
instruments or affidavits required to maintain, issue and enforce said Letters Patent and said equivalents thereof which may be necessary or desirable to carry out the purposes thereof.

ASSIGNOR hereby consents that a copy of this assignment shall be deemed a full legal and formal equivalent of any document which may be required in any country in proof of the right of ASSIGNEE to apply for patent or other form of protection for said inventions and to claim the aforesaid benefit of the right of priority.

DOTHAN, INC.

Date: December 19, 2005

By



Melvin E. Pierce  
President

Witness:

